

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff, No: 1:16cr242

vs.

LAWRENCE GERARD NASSAR,

Defendant.

Before:

THE HONORABLE RAY KENT  
U.S. Magistrate Judge  
Grand Rapids, Michigan  
July 11, 2017  
Plea Proceedings

APPEARANCES:

MR. ANDREW BIRGE, U.S. ATTORNEY

By: MR. SEAN LEWIS

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On behalf of the Plaintiff;

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On behalf of the Defendant.

TRANSCRIBED BY: MS. KATHY J. ANDERSON, RPR, FCRR

July 11, 2017

PROCEEDINGS, 10:33 a.m.

THE COURT: This is 16cr242, United States of America versus Lawrence Gerard Nassar. Mr. Lewis appears on behalf of the United States. Mr. Newburg and Ms. Smith on behalf of Dr. Nassar.

Dr. Nassar, we're here this morning because your lawyers tell me that you have decided to change your plea from not guilty to guilty pursuant to the terms of a written plea agreement. Is that right?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Dr. Nassar, I know we covered your education in an earlier hearing but refresh my memory. Where did you get your undergraduate degree?

THE DEFENDANT: University of Michigan.

THE COURT: All right. Where did you get your medical degree?

THE DEFENDANT: Michigan State University.

THE COURT: All right. Thank you. Dr. Nassar, do you have any physical or mental ailment which would make it difficult for you to either understand the charges against you or what's happening in court?

THE DEFENDANT: No, Your Honor.

THE COURT: In the last 24 hours, have you had any drugs, alcohol, or medicine?

1 THE DEFENDANT: Anti hypertensive medication.

2 THE COURT: Okay. Blood pressure medication?

3 THE DEFENDANT: Blood pressure medication.

4 THE COURT: Does that blood pressure medication have  
5 any impact on your cognitive abilities?

6 THE DEFENDANT: No, Your Honor.

7 THE COURT: Do you feel clear of mind as you sit here  
8 right now?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Dr. Nassar, you still have the right to  
11 remain silent. You don't have to say anything about this case,  
12 but if we go forward with your stated desire to change your  
13 plea to guilty, I'll be asking you a series of questions. In  
14 answering those questions, you'll be giving up both the right  
15 to remain silent, and also the presumption of innocence because  
16 some of those questions are going to go to the issue of your  
17 guilt on the charges that you propose to plead guilty to.

18 Moreover, before I ask you those questions, I'm going  
19 to have you placed under oath to tell the truth. If you were  
20 then to answer any of my questions falsely, you could be  
21 charged with perjury or making a false statement which are  
22 separate federal crimes and carry their own penalties. Do you  
23 understand that?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Do you still wish to go forward?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: All right. If you would, sir, then please  
3 stand and raise your right hand and I'll have you placed under  
4 oath.

5 LAWRENCE GERARD NASSAR, DEFENDANT, WAS DULY SWORN

6 THE CLERK: Please be seated.

7 THE COURT: Dr. Nassar, as we covered in your initial  
8 appearance before me, you have the right to a lawyer. You've  
9 hired Mr. Newburg and Ms. Smith to represent you in this  
10 matter. Have you been satisfied with their representation of  
11 you thus far?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: All right. Let me remind you that if at  
14 any time you were unable to continue them as your lawyers, for  
15 example, perhaps you couldn't afford to pay them any longer,  
16 you need only ask me, and if you qualify financially, I will  
17 appoint a lawyer to represent you. Do you understand that?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Dr. Nassar, even as we sit here in court  
20 now about to take your guilty plea, you do still have the right  
21 to persist in your plea of not guilty. You remain presumed  
22 innocent of all the charges against you. The government still  
23 has the burden of proving you guilty beyond a reasonable doubt  
24 on each and every element of the three crimes that it has  
25 charged you with. That would occur at a speedy and public

1 trial before a jury of 12 people drawn from the community. At  
2 that trial you would have the right through your lawyers to  
3 confront and cross-examine the government's witnesses, to call  
4 your own witnesses, and have the Court order them to appear and  
5 testify; you would have the right to present other evidence  
6 which you believe demonstrates you're not guilty of these  
7 charges; and finally, you would have the right to either  
8 testify in your own defense, or remain silent and not have your  
9 silence used against you in any way.

10 If we go forward with your guilty plea, however, there  
11 won't be a trial of any kind and you'll be giving up all of the  
12 rights that I've just described except the right to continue  
13 being represented by your lawyers. Do you understand that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: As I understand the provisions of the plea  
16 agreement, you're going to be pleading guilty to all three  
17 counts of the superseding indictment.

18 Count I charges you with Receipt and Attempted Receipt  
19 of Child Pornography. The government claims that between  
20 September 18, 2004, and December 1, 2004, in Ingham County, you  
21 knowingly received child pornography that had been moved in  
22 interstate or foreign commerce by means of a computer, that is,  
23 you know, in plain language, you downloaded it off of, using  
24 your computer off the Internet; and that that information  
25 contained images of child pornography which are, some of which

1 are listed specifically in Count I.

2 Do you understand what you're charged with in Count I?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Count II charges you with Possession of  
5 Child Pornography. The government alleges that between  
6 February 6th of 2003 and September 20th of 2016, also in Ingham  
7 County, you knowingly possessed one or more computer disks,  
8 electronic files, and other materials that contained thousands  
9 of images of child pornography. Again some of those are  
10 specifically identified within the count.

11 The government alleges further that some of those  
12 images had been, again, shipped or transported in interstate  
13 commerce, meaning they had traveled across the Internet and you  
14 accessed them by use of a computer, including, but not limited  
15 to an AcomData hard drive which had been manufactured outside  
16 the State of Michigan.

17 Finally, that some of the images which you possessed  
18 during that time period included images of a minor who had not  
19 attained the age of 12 years.

20 Do you understand what you're charged with in  
21 Count II?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: And then finally Count III charges  
24 Destruction and Concealment of Records and Tangible Objects.  
25 The United States alleges that on or about September 19, 2016,

1 and September 20th of that year, in Ingham County, you  
2 knowingly destroyed, concealed, and attempted to cover up  
3 documents and tangible objects with the intent of impeding or  
4 obstructing an investigation within the jurisdiction of the  
5 Federal Bureau of Investigation. In particular, the government  
6 claims that you caused a third party vendor to wipe clean the  
7 memory of a hard drive of a laptop computer and also threw into  
8 the trash a number of external hard drives.

9 At the time you took these actions you contemplated  
10 that you were the subject of an investigation into your  
11 possession of child pornography.

12 Do you understand what you're charged with in  
13 Count III?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Dr. Nassar, if you're convicted of any of  
16 these charges there are certain penalties which can apply.  
17 With regard to Count I, the receipt of child pornography count,  
18 the maximum penalties include not less than five years in  
19 federal prison and up to 20 years in federal prison, a fine of  
20 up to \$250,000, a period of supervised release of not less than  
21 five years and up to lifetime supervised release. Supervised  
22 release is a time following your release from any prison term  
23 during which you would remain under the supervision of Judge  
24 Janet Neff. Judge Neff is the trial judge in your case. Judge  
25 Neff is the judge who will sentence you if your guilty plea is

1 ultimately accepted.

2 And on the subject of Judge Neff, I'm going to circle  
3 back and cover an issue that I failed to cover earlier and  
4 should have. And that is, the right to have this hearing  
5 conducted by Judge Neff because Judge Neff is your trial judge,  
6 because Judge Neff is a United States District Judge; she was  
7 appointed for life by President George W. Bush. I'm not a  
8 United States District Judge. I'm a magistrate judge. I was  
9 appointed under a statute and serve an eight-year term. Unlike  
10 Judge Neff, I can't actually accept your plea here today or  
11 find you guilty. What I can do with your consent is to ask you  
12 the questions that Judge Neff would ask as I've been doing,  
13 advise you of your rights as she would, and then prepare a  
14 written report to her recommending that she either accept or  
15 reject your plea of guilty. Do you understand you have the  
16 right to have this hearing before Judge Neff?

17 THE DEFENDANT: Yes, I do, sir.

18 THE COURT: In front of you is a consent form which  
19 I'm going to ask you a couple questions about. The form  
20 appears to contain your decision to allow me to handle this  
21 hearing in place of Judge Neff. Is that your signature near  
22 the bottom of the form?

23 THE DEFENDANT: Yes, it is, Your Honor.

24 THE COURT: Did you read it and understand that form  
25 before you signed it?



1 THE DEFENDANT: Yes, we sat down with my attorneys.

2 THE COURT: Okay. Did anybody threaten you, coerce  
3 you, or promise you anything to get you to consent to let me  
4 handle this hearing?

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: Was that a free will and voluntary  
7 decision on your part?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Okay. Well, I believe that it was, and I  
10 accept your consent and we will proceed.

11 So turning back to the question of supervised release  
12 on Count I. Supervised release is this time following your  
13 release from prison during which you would remain under Judge  
14 Neff's supervision. She will impose conditions on you.  
15 Conditions like you not commit any new crimes, perhaps  
16 counseling, community service, seek and maintain employment,  
17 whatever Judge Neff thinks the appropriate conditions are for  
18 you. If you were to violate any of the conditions while you're  
19 on supervised release, Judge Neff can send you back to prison  
20 for all or part of the supervised release term.

21 On Count I that supervised release term can't be less  
22 than five years and could be up to life. Understand?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: All right. There is also a special  
25 assessment of \$100, and you may be ordered to pay restitution.

1 Victims of child pornography, the children depicted in these  
2 images, have come forth, some of them, and said I was damaged  
3 by this experience, and I have suffered injury, and I have  
4 suffered expenses in the form of counseling, for example.  
5 Congress has decided that folks who view, receive, possess  
6 child pornography should be liable to pay restitution to those  
7 victims. So I don't know as I sit here now, and I don't expect  
8 anybody does, maybe Mr. Lewis does, whether any of the children  
9 depicted in these images that you possessed have come forward  
10 and made claims in other cases. But it's possible that some of  
11 them may come forward in your case, and if so, it's also  
12 possible that Judge Neff may order you to pay restitution to  
13 them.

14 Do you understand that?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: All right. Do you understand then the  
17 maximum penalties on Count I?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: On Count II, the Possession of Child  
20 Pornography, the penalties are a little different. There is no  
21 mandatory minimum prison term. The maximum prison term is  
22 20 years, again a \$250,000 fine, the same period of supervised  
23 release, that is, five years to life, a special assessment of  
24 \$100, mandatory restitution, and an additional special  
25 assessment under the Justice for Victims of Sex Trafficking Act

1 of 2015, another act passed by Congress to help compensate  
2 victims of sex crimes. Under that law you would be required to  
3 pay a \$5,000 special assessment.

4 Do you understand the maximum penalties on Count II?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: On Count III, Destruction and Concealment  
7 of Records and Tangible Objects, the maximum penalties are not  
8 more than 20 years in prison, a fine of not more than \$250,000,  
9 a period of supervised release of not more than three years,  
10 and, again, the \$100 special assessment. Do you understand the  
11 maximum penalties on Count III?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: If you were to go to trial on these three  
14 charges, the government would have to prove certain things in  
15 order to convict you. I'm going to summarize the essential  
16 elements of each charge now and after that I'm going to ask  
17 Mr. Lewis to tell us what evidence the government would  
18 actually produce if you were to go to trial. And, again, that  
19 will be an overview and a summary, not a detailed inventory of  
20 the evidence.

21 On Count I, the charge of Receipt of Child  
22 Pornography, the government would have to prove, first, that  
23 you knowingly received child pornography; two, you knew it was  
24 child pornography; three, the child pornography had been  
25 shipped or transported in interstate or foreign commerce by

1 means of a computer. Do you understand the three elements the  
2 government would have to prove on Count I?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: On Count II, the Possession of Child  
5 Pornography count, the government would have to prove, first,  
6 that you knowingly possessed images of child pornography on a  
7 computer disk or other medium; second, you knew that that  
8 material contained child pornography; third, again, the images  
9 of child pornography were shipped or transported in interstate  
10 or foreign commerce by means of a computer; and fourth, that  
11 the images of child pornography included images involving a  
12 minor or minors who had not attained the age of 12 years.

13 Do you understand the elements the government would  
14 have to prove on Count II?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: On Count III, the Destruction and  
17 Concealment of Evidence count, the government would have to  
18 prove, first, that you knowingly deleted or altered information  
19 on your computer; second, you acted with the intent to impede  
20 or obstruct or influence an investigation which you  
21 contemplated was taking place; and third, that the matter was  
22 within the jurisdiction of the Federal Bureau of Investigation.

23 Do you understand the elements the government would  
24 have to prove on Count III?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: All right. Dr. Nassar, I'm now going to  
2 invite Mr. Lewis to summarize the evidence the government would  
3 offer if you went to trial. I want you to please listen  
4 carefully. I'm going to have a couple questions for you when  
5 he's finished.

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Mr. Lewis.

8 MR. LEWIS: Thank you, Your Honor. I will be reading  
9 from starting on page 5 of the plea agreement.

10 First, with regard to the factual basis for Count I.  
11 If this case went to trial the government would have shown,  
12 among other things, that, "Between September 18, 2004, and  
13 December 1 of 2004, the defendant knowingly downloaded images  
14 and videos of child pornography from the Internet.

15 He used a program called NewsRover to download this  
16 material. At the time the defendant downloaded this material,  
17 he knew it was child pornography.

18 The defendant was in the Western District of Michigan  
19 at the time he downloaded this material from the Internet.

20 The Internet is a means of facility of interstate  
21 commerce, and the images and videos the defendant downloaded  
22 had crossed state lines before he downloaded them."

23 Moving on to the factual basis for Count II. Had this  
24 case gone to trial, the government would have shown, among  
25 other things that, "Between 2003 and 2016, the defendant

1 knowingly possessed thousands of images and videos of child  
2 pornography on an AcomData hard drive and other devices while  
3 present in the Western District of Michigan.

4 He knew the drive and devices contained child  
5 pornography. Prior to the defendant possessing the images,  
6 they had been shipped and transported both across state lines  
7 and using the Internet, which is a means and facility of  
8 interstate commerce.

9 In addition, the images were produced using materials  
10 that had been shipped or transported in or affecting interstate  
11 and foreign commerce, specifically, they were produced using an  
12 AcomData hard drive that was constructed of components made  
13 outside of the State of Michigan. The images of child  
14 pornography possessed included images involving minors who had  
15 not attained the age of 12."

16 Finally, the factual basis for Count III had this case  
17 gone to trial the government would have proven that, "On or  
18 about September 19 of 2016 the defendant brought his work  
19 laptop to a computer service store in the Western District of  
20 Michigan. He paid the store \$49 to completely wipe that  
21 computer. The store permanently deleted all of the data at the  
22 defendant's request, including the operating system.

23 The defendant then turned the wiped laptop over to his  
24 employer. Forensic analysis of the machine revealed that the  
25 defendant had completely wiped it of all of its contents."

1           The next day, "On or about September 20th of 2016, the  
2       defendant threw away a number of hard drives, including that  
3       AcomData hard drive that I discussed earlier. On September 20,  
4       2016, police recovered these hard drives from the defendant's  
5       trash can, which he had placed by the road for collection.  
6       Forensic analysis revealed thousands of images of child  
7       pornography on two of the hard drives the defendant had  
8       discarded.

9           At the time the defendant took these actions he was  
10      aware that law enforcement was investigating his activities and  
11      he feared that this investigation would reveal that he had  
12      received and possessed child pornography.

13           He took those actions of wiping the hard drive and  
14      throwing away the others with the intent to impede and obstruct  
15      that investigation. And that investigation that he feared was  
16      within the subject matter of Federal Bureau of Investigation.

17           Thank you.

18           THE COURT: Thank you, Mr. Lewis. Dr. Nassar, did you  
19      hear everything Mr. Lewis just said?

20           THE DEFENDANT: Yes, I did.

21           THE COURT: Is everything he just said true?

22           THE DEFENDANT: Yes, Your Honor.

23           THE COURT: Do you agree that the government would be  
24      able to produce all of the evidence that Mr. Lewis just  
25      described?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: And do you agree that that evidence would  
3 be sufficient to convict you if you went to trial?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Dr. Nassar, under the Sentencing Reform  
6 Act of 1984, the United States Sentencing Commission has issued  
7 advisory sentencing guidelines for judges like Judge Neff to  
8 consider when formulating a sentence in a federal criminal  
9 case. Have you talked to your lawyer about these guidelines  
10 and how they might apply to you?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Do you understand that Judge Neff will not  
13 be able to determine what guideline range applies to you until  
14 after a presentence report has been prepared?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Do you understand that even after Judge  
17 Neff determines what guideline does apply to you, she has the  
18 discretion to impose a sentence that's within that range, above  
19 that range, or below that range?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Do you understand that if the sentence  
22 Judge Neff ultimately gives you is more severe than what you're  
23 expecting, you'll still be bound by your guilty plea and will  
24 not be able to withdraw it?

25 THE DEFENDANT: Yes, Your Honor.



1 THE COURT: Dr. Nassar, do you understand that parole  
2 has been abolished in the federal criminal system and if you're  
3 sentenced to prison you will not be released on parole?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Counsel, Dr. Nassar is not, I understand  
6 that he is in custody on the state charges, but he is not on  
7 parole, probation, or any status with any other court at this  
8 time, is he?

9 MR. LEWIS: He is not.

10 MR. NEWBURG: He is not, Your Honor.

11 THE COURT: Dr. Nassar, do you understand the  
12 government may be able to appeal any sentence that you receive?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: All right. Dr. Nassar, do you believe  
15 that you understand the nature of the charges against you in  
16 Counts I, II, III of the indictment, the penalties for those  
17 charges as I've described them, and your rights as I've  
18 explained them to you?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Understanding all of those things, how do  
21 you plead to Counts I, II and III of the superseding  
22 indictment?

23 THE DEFENDANT: I plead guilty as stated.

24 THE COURT: Is your decision to plead guilty the  
25 result of any force, threats, or coercion against you?

1 THE DEFENDANT: No, Your Honor.

2 THE COURT: Is your decision to plead guilty a free  
3 will and voluntary act by you?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Are you pleading guilty because you are in  
6 fact guilty?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Is your decision to plead guilty at least  
9 in part based upon promises made by the government in the  
10 written plea agreement?

11 THE DEFENDANT: No, Your Honor. I'm confused. Could  
12 you repeat that? I'm sorry.

13 THE COURT: Absolutely. So is your decision to plead  
14 guilty here a result of promises or concessions made by the  
15 government in the written plea agreement?

16 THE DEFENDANT: Oh, oh, I understand. Okay. Yes,  
17 Your Honor.

18 THE COURT: Okay. I mean the government, for example,  
19 is agreeing not to pursue prosecution of other charges that it  
20 could have pursued against you.

21 THE DEFENDANT: Okay. I understand.

22 THE COURT: And is that promise by the government at  
23 least in part the reason why you decided to plead guilty?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Dr. Nassar, have you read the entire plea

1 agreement?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Have you discussed it with your lawyers?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Have they been able to answer any  
6 questions that you have about it?

7 THE DEFENDANT: I have no questions, Your Honor.

8 THE COURT: Is every statement made in the plea  
9 agreement true?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Do you agree with every statement made in  
12 the plea agreement?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: And do you agree to be bound by every  
15 statement contained?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Mr. Lewis, are there portions of the plea  
18 agreement you wish to place on the record?

19 MR. LEWIS: Yes, if I may, Your Honor.

20 Your Honor, I'll just start at the beginning and move  
21 through it quickly.

22 The Court has already gone over with the defendant the  
23 materials covered on the first three pages of the plea  
24 agreement.

25 At the top of page 4, the Court certainly has outlined

1 each of the maximum penalties for each of the counts. The plea  
2 agreement points out that the Court in sentencing the defendant  
3 may ultimately impose each of those 20-year sentences  
4 consecutively, which could result in up to a 60-year sentence.

5 The Court did talk a little bit about restitution in  
6 paragraph 5 on page 4. As part of this plea agreement the  
7 defendant has agreed to not only make restitution to the  
8 victims of the child pornography, but more broadly to make  
9 restitution to all of the victims of his sexual exploitation, a  
10 determination that will be made by Judge Neff at the time of  
11 sentencing. He specifically agrees that restitution order will  
12 not be limited to just these three counts.

13 Paragraph 6 just outlines that one of the consequences  
14 of this guilty plea likely means that he will lose his medical  
15 license.

16 Paragraph 7 advises him, in addition to the penalties  
17 the Court has outlined, he will, after being convicted, should  
18 Judge Neff accept his plea, be required to register as a sex  
19 offender for the rest of his life.

20 And on page 7 the Court touched a little bit on the  
21 promises that the government is making to the defendant in  
22 exchange for his guilty plea. I did want to just talk a little  
23 bit about the non-prosecution agreement to make sure the  
24 defendant understands the limited scope of that agreement, what  
25 it actually is that the government is promising here.

1           In paragraph 11c the government promises first not to  
2 prosecute the defendant with respect to Child 1 and Child 2  
3 related to conduct that occurred in a swimming pool in the  
4 summer of 2015.

5           The government further agrees not to prosecute him  
6 with regard to two additional children, Child 3 and Child 4  
7 related to conduct that occurred and that involved  
8 international/interstate travel with intent to engage in  
9 illicit sexual conduct.

10          His agreement while providing that the government will  
11 not pursue those specific charges with respect to those four  
12 individuals and those four individuals only points out, and the  
13 defendant agrees, that that underlying conduct can still be  
14 taken into consideration, in fact, will be taken into  
15 consideration at the time of sentencing.

16          The defendant also, this agreement points out,  
17 understands that the government is free to prosecute him for  
18 other conduct in the past. This agreement not to prosecute is  
19 limited to four and four individuals only and only with regard  
20 to the conduct outlined here.

21          On page 9, Your Honor, there's a portion of the plea  
22 agreement where the parties have stipulated to certain  
23 guidelines, and the defendant has agreed not to oppose the  
24 scoring of those guidelines. The defendant has indicated that  
25 he has discussed those with his lawyers and realizes when one

1 does the math that's going to result, if again it's up to Judge  
2 Neff whether she, to calculate those on her own, but should she  
3 agree with the party's stipulation that's going to result in an  
4 advisory sentencing guideline of approximately 22 to 27 years.

5 The government can and is not bound by that, can seek  
6 a greater sentence, and similarly, the defendant can seek a  
7 lesser sentence.

8 The Court covered the various trial rights the  
9 defendant is agreeing to give up. Those are outlined on page  
10 10.

11 On page 11, paragraph 19, and proceeding on to page  
12 12, that line just, the agreement outlines what would happen if  
13 the defendant breaches his agreement, including the  
14 stipulations that he has made in here. The government would be  
15 free to prosecute him for everything including those four  
16 individuals outlined in 11c.

17 I would also note, Your Honor, in light of the Crime  
18 Victims Rights Act that before we notified defense counsel that  
19 we are in fact prepared to move forward with this agreement, I  
20 met in person with the children, Child 1, 2, 3 and 4,  
21 specifically Child 1 and 2 are still minors so I met with their  
22 parents, I discussed this proposed plea agreement with them,  
23 solicited their opinion and preferences. And they were in  
24 favor, expressed to me and the agents they were in favor of  
25 this agreement.

1                   Similarly, I have met in person with Child 3 and Child  
2                   4. At that time they again expressed to me they were in favor  
3                   of this agreement, and it was only after conferring with those  
4                   four, either the parents or the victims directly, that we  
5                   communicated to defense counsel that, yes, in fact we were  
6                   ready to proceed with this agreement.

7                   Finally, Your Honor, the defendant has admitted to  
8                   receiving and possessing child pornography. I have should the  
9                   Court wish to see them some exemplars from his large  
10                  collection. I've shown them to defense counsel. I don't think  
11                  there is any dispute they are in fact child pornography. I did  
12                  want to just point that out for the record.

13                  THE COURT: All right. Thank you, Mr. Lewis.  
14                  Counsel, do you agree the images constitute child pornography?

15                  MR. NEWBURG: We do, Judge.

16                  THE COURT: All right. Dr. Nassar, did you hear  
17                  Mr. Lewis's summary of the contents of the plea agreement?

18                  MS. SMITH: Your Honor, I'm sorry. May I please  
19                  correct one thing that was stated by Mr. Lewis in his  
20                  summation?

21                  THE COURT: Of course.

22                  MS. SMITH: On page 7 in the section about the  
23                  non-prosecution agreement, he understands these alleged events  
24                  can be used for scoring purposes, but Dr. Nassar does not agree  
25                  that these incidents happened. And that's why the

1 non-prosecution agreement reads that they are alleged incidents  
2 in a pool, and alleged incidents while traveling. I just  
3 wanted to place that on the record because that was a part of  
4 our plea negotiations in coming to the terms of this plea  
5 agreement.

6 THE COURT: All right.

7 MS. SMITH: We do understand, and it does explicitly  
8 state, however, that those alleged events can be used in the  
9 scoring.

10 THE COURT: All right. Thank you. So, Dr. Nassar,  
11 you understand that -- my understanding is you contest the  
12 underlying facts regarding victims 1, 2, 3 and 4, is that fair  
13 to say?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: But you understand that Judge Neff can  
16 treat those allegations as true and take them into  
17 consideration in formulating her sentence for you.

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: And you agree to it?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: All right. Do you agree with everything  
22 else that was contained in Mr. Lewis's summary of the plea  
23 agreement, Dr. Nassar?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Dr. Nassar, I'm going to direct your



1 attention to paragraph 13 and the stipulations regarding  
2 calculation of the Federal Sentencing Guidelines. Now,  
3 subparagraph b of 13 expressly says that those stipulations are  
4 not binding on Judge Neff, but I just want you to understand  
5 that that is absolutely true. That Judge Neff could come up  
6 with different scoring than the scoring set forth here. Do you  
7 understand that?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And even if she does, that would not  
10 provide a basis for you to withdraw your guilty plea.

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: So even if she scores the guidelines and  
13 the guideline range is more severe than the guideline range you  
14 and the government have agreed is appropriate under these  
15 facts, you would still be bound by your guilty plea.

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Defense counsel, any portions of the plea  
18 agreement that you wish to place on the record other than the  
19 comments you've already made?

20 MS. SMITH: No, Your Honor. Thank you.

21 THE COURT: Dr. Nassar, has anybody promised you  
22 anything that is not contained in the written plea agreement?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: Dr. Nassar, I know this is going to sound  
25 repetitive, and it is to an extent, but it's necessary. So

1 bear with me, if you would. I want to turn your attention back  
2 to paragraphs 8, 9, and 10 which contain the factual basis of  
3 the plea for each of the three counts, I, II and III  
4 respectively.

5 Is everything, every statement made in paragraphs 8, 9  
6 and 10 true?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And do you agree to be bound by every  
9 statement made in paragraphs 8, 9 and 10?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right. Mr. Lewis, are the, is the  
12 factual basis as set forth in the stipulated facts contained in  
13 paragraphs 8, 9 and 10 sufficient to support the guilty plea?

14 MR. LEWIS: It is, Your Honor.

15 THE COURT: All right. Counsel, do you agree?

16 MR. NEWBURG: We agree.

17 THE COURT: Dr. Nassar, I find that your plea of  
18 guilty is made knowingly and with full understanding of each of  
19 the rights that I explained to you; that it's made voluntarily  
20 and free from any force, threats or promises apart from the  
21 promises contained in the written plea agreement itself.

22 I find that you understand the nature of the charges  
23 contained in Counts I, II and III of the superseding  
24 indictment, the penalties provided by law for those offenses,  
25 your rights, and finally, that your plea has a sufficient basis

1 in fact to support it, specifically, the agreed upon facts  
2 contained in paragraphs 8, 9 and 10.

3 I defer acceptance of the written plea agreement to  
4 Judge Neff. That's her decision to make, not mine. But I am  
5 going to recommend that Judge Neff accept your plea and find  
6 you guilty. I will prepare a written report and recommendation  
7 to that effect today.

8 I'm ordering that a presentence investigation commence  
9 and that a presentence report be prepared.

10 From your perspective, Dr. Nassar, the next thing to  
11 happen in the case in all likelihood is you will be interviewed  
12 by a probation officer whose job it will be to ask you a long  
13 series of questions about going back to your childhood, your  
14 family, your upbringing, your health, education, work history.  
15 I don't think you have any criminal history, but they will look  
16 into that. And using all of that information, and other  
17 information which they will collect, they will prepare a  
18 lengthy written report to Judge Neff filling in information  
19 about you. Part of that report, and a critical piece from your  
20 perspective, will be the scoring of the sentencing guidelines.  
21 Your lawyers will be with you for this interview. You'll get a  
22 copy of the written report at least 30 days before the date set  
23 for your sentencing which is likely to be November-ish. It's  
24 running about four months now between the date of a plea and  
25 the date of sentencing.

1           Now, your lawyers will be in contact with Judge Neff  
2 obviously and get the actual date and time; I'm sure meet with  
3 you at length and prepare you for that. But this report will  
4 be provided to you and your lawyers at least 30 days before the  
5 sentencing date. You'll have an opportunity to talk about it  
6 with them. If there's anything in there that you disagree  
7 with, for example, if your lawyers disagree with the guideline  
8 scoring, they will meet with the probation officer and attempt  
9 to work out any differences. If they're unable to do that,  
10 ultimately Judge Neff will resolve any outstanding issues  
11 before she sentences you.

12           You'll be continued in custody of the marshals pending  
13 further proceedings before Judge Neff.

14           Mr. Lewis, anything further from the United States on  
15 Dr. Nassar's case?

16           MR. LEWIS: No, thank you, Your Honor.

17           THE COURT: All right. Mr. Newburg, Ms. Smith,  
18 anything from either of you?

19           MR. NEWBURG: Nothing from us. Thank you, Judge.

20           MS. SMITH: No, Your Honor. Thank you.

21           THE COURT: Dr. Nassar, did you understand everything  
22 that happened in court here this afternoon?

23           THE DEFENDANT: Yes, thank you, Your Honor.

24           THE COURT: Do you have any questions for me before I  
25 adjourn your case?

1 THE DEFENDANT: No, thank you, Your Honor.

2 THE COURT: And of course it's still morning not  
3 afternoon. With that correction, no questions?

4 THE DEFENDANT: No questions, Your Honor.

5 THE COURT: Okay. We will be adjourned.

6 THE CLERK: All rise, please. Court is adjourned.

7 (Proceedings concluded, 11:10 a.m.)

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## C E R T I F I C A T E

I certify that the foregoing is a transcript from the Liberty Court Recording System digital recording of the proceedings in the above-entitled matter to the best of my ability.

/s/ Kathy J. Anderson

Kathy J. Anderson, RPR, FCRR

U.S. District Court Reporter

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**KATHY J. ANDERSON, U.S. DISTRICT COURT REPORTER**